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REMARKS

In response to the Office Action mailed on June 18, 2007, Applicant respectfully requests reconsideration. Claims 1-8, 11-30 and 33-46 are now pending in this Application. Claims 1, 20, 24 and 40-43 are independent claims and the remaining claims are dependent claims. In this Amendment, claims 1, 5, 20, 24 and 40-43 have been amended. Applicant(s) believe that the claim(s) as presented are in condition for allowance. A notice to this affect is respectfully requested.

Claims 1-8, 11-30 and 33-46 have been rejected as nonstatutory under **35 U.S.C. §101**. Referring to Independent claims 1, 20, 24 and 40-43, the claimed subject matter refers to a data access transaction (request) and resulting data access transaction (response) in a query system such as an SQL database management system. As is known in the art, a SQL (or any database management system) receives queries indicative of entries in the database, and returns responses satisfying such queries, either directly to a user or indirectly to a requesting application which in turn performs some activity or processing on behalf of a requesting user. Accordingly, it is apparent that the data access response is a tangible output of the system. Nonetheless, applicant has further clarified this aspect by amending claim 1 to recite that the resulting data access transaction [is] returned to a requestor without restricted data items, as disclosed in the specification at page 6, line 11-page 7, line 2. Independent claims 20, 24 and 40-43 have been similarly amended. Further, claims 41 and 42, rejected as computer readable media, have been further amended to recite a set of instructions responsive to a processor encoded thereon that, when executed by the processor, cause the computer to perform a method. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. §101 be withdrawn.

Claims 1, 5, 6, 8, 11-12, 15, 17-19, 24, 28-29, 33-35, 38-39 and 42-46 have been rejected under **35 U.S.C. §103(a)** as being obvious over Fischer, U.S.

Patent No. 6,085,191 (hereinafter Fischer '191) in view of Hippelainen, U.S. Pub. No. 2002/0078384 (hereinafter Hippelainen '384).

The Office Action indicates that certain claimed features corresponding to conditional execution are not considered to serve as distinguishing over prior art. Applicant submits that the conditional "if" language corresponds to a set of computer program instructions for conditionally performing certain instructions. Such instructions are nonetheless present in the computer program and therefore define a patentable feature of the claimed method. Since the method applies to a persistent data repository, Applicant submits that such a method necessarily is performable by a computer. However, in the interest of furthering the case to allowance, Applicant has amended claim 1 to remove the conditional language.

Accordingly, Claim 1 has been herein amended to recite "determining a correspondence of the intercepted data access transaction to a security policy", and "selectively limiting, based on the determined correspondence to the security policy", to clarify the alleged conditional limitations. Claim 1 has been further amended to recite that the claimed repository is a "persistent computer data repository", to refine the subject matter as pertaining to a method performable by a computer. Similar notations regarding alleged "intended use" elements has also been refined, such that claim 1 now recites "padding the packets to emulate packets having a corresponding length as the restricted data items," to further clarify the invention expressed in claim 1. Claims 20, 24 and 40-43, having similar conditional language, have been likewise amended.

The Office Action further rejects Claim 1 under 35 U.S.C. §103(a) based on Fischer '191 in view of Hippelainen '384. For the reasons discussed further below, it is believed that Fischer '191 does not show, teach or disclose, either alone or in combination, the subject matter recited in Claim 1.

Fischer '191 teaches access based security, which focuses on the attributes (privileges) of the accessor (i.e. user). In contrast, the claimed invention performs data level security, which focuses on the nature of the data

content in determining whether access should be granted. In other words, Fischer is concerned with WHO is accessing the data (col. 3, lines 29-42), while the present application addresses WHAT is being accessed.

In further distinction, the claimed invention performs nonintrusive monitoring, while Fischer is further distinguished from the claimed method because Fischer '191 operates in a primary server 150, intrusively impacting transaction throughput. The Fischer approach incorporates an access control tree exchange that burdens all data access transactions with privilege/rights checks (col. 5:15-31), while the claimed nonintrusive monitoring observes transactions from the access path or stream, without interfering or manipulating the transmission unless intervention is warranted by the passing data. Fischer teaches a system in which the access control procedure replaces the intended recipient (col. 28, lines 2-12); it does not sniff and intercept in a nondestructive manner, as recited in claim 1. In clarification, Claim 1 has been amended to recite that the nonintrusive manner gather[s] the data access transaction from a stream of data between the application and the data repository, as disclosed at page 10, lines 3-12.

The Office Action further cites Hippelainen '384 for the purpose of disclosing padding of packets ([0038]). Hippelainen, however, is inapplicable to either Fischer or to the present system because the Hippelainen approach involves a separate node for which packets are duplicated and sent, along with "fake" packets, as disclosed at [0031] and [0061]. Accordingly, one of skill in the art would not look to Hippelainen to modify Fischer '191 because, as shown above, Fischer is an integrated primary server having an access control tree, and does not involve a remote node for sending duplicated (copied) packets to. Further, even if one were to attempt to combine Hippelainen with Fischer, the result would be inoperable because Fisher has no destination for the copied, duplicate packets and the result would certainly not anticipate the claimed approach because there the copied packets yield no stream to nonintrusively monitor.

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To further distinguish the claimed feature of padding, Claim 1 has been herein amended to recite that the padding emulate[s] packets having a corresponding length as the restricted data items, as disclosed at page 7, lines 14-20, so that the recipient receives a transaction of the expected length and format. This differs from the Hippelainen approach, which always pads to the maximum length [0038]. Still further, Claim 1 has been amended with the subject matter of claim 5, to clarify the padding approach by reciting identifying rows in the packets having restricted data items, and eliminating the identified rows from the data access transaction such that the resulting data access transaction is a modified query response including rows without restricted data items, to further distinguish Claim 1. Claims 1, 24, and 43, rejected on similar grounds, have been likewise amended and are also believed allowable for the reasons given above.

Claims 20-23, 36 and 40-41 have been rejected under **35 U.S.C. §103(a)** as being obvious over Fischer, U.S. Patent No. 6,085,191 (hereinafter Fischer '191) in view of Slutz, U.S. Patent No. 6,581,052 (hereinafter Slutz '052). Claims 20, 40, and 41 have been herein amended according to the above discussion with respect to Fischer '191. With respect to Slutz '052, Slutz is directed to test equipment for databases, not non-intrusive data level processing, as claimed in the present system. Accordingly, one of skill in the art would not look to Slutz '052 to modify Fischer '191. Such test equipment is not concerned with, and does not show, teach, or disclose, nonintrusive monitoring as claimed. Such non-intrusive monitoring avoids impacting performance from processing used to process the transactions, and is of little concern in a test system as in Slutz. Claims 20, 40 and 41 have been amended to clarify this nonintrusive nature of the claimed processing. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. §103(a) be withdrawn.

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As the remaining claims depend from, either directly or indirectly, claims 1, 20, 24 and 43, it is respectfully submitted that all claims in the case are now in condition for allowance.

Applicant(s) hereby petition(s) for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-3735.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 616-9660, in Westborough, Massachusetts.

Respectfully submitted,

/CJL/

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